

### **REMARKS**

Applicant requests further examination and reconsideration of the application in view of the following remarks.

#### **1. Status of the Claims**

Claims 1, 39 – 41 and 43–75 are pending in this application. Claims 49-71 have been properly renumbered as claim number 48 was inadvertently repeated. Claims 1 and 40 have been amended. New claims 72-75 have been added. Support for the claim amendments and new claims can be found in the specification including, for example, as follows:

claims 1 and 40, page 6 lines 19-22;  
claims 72-73, page 15 line 25 through page 16 line 4;  
claim 74, page 20, line 13 through page 21 line19; and  
claim 75, page 23 line 21 through page 24 line 14.

#### **2. Claim Objections**

Claims 40-41, 43-48 and 67-68 were indicated as having allowable subject matter in the January 13, 2003 Office Action and were objected to as being dependent upon rejected base claim 1. Claim 1 has been amended to recite that the handheld snack item is a grain cake. Applicant respectfully submits that the amendment to claim 1 obviates the objection to claims 40-41, 43-48 and 67-68 and also renders claims 1, 39, 49-66 and 69-71 allowable for the same reasons. Consequently, claims 1, 39-41 and 43-71 are allowable.

#### **3. Prior Art Rejections**

Claims 1, 39, 49-66 and 69-71 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 3,544,332 to Leebens (Leebens) in view of U.S. Patent

No. 5,709,902 to Bartolomei et al. (Bartolomei). Applicant respectfully traverses this rejection as Leebens and Bartolomei fail to teach or suggest the subject matter recited in the present claims.


Regarding claims 1, 39, 49-66 and 69-71, Leebens and Bartolomei, either alone or in combination, fail to teach or suggest applying (1) a first heat-sensitive coating material and/or (2) a second coating material to protect the first heat-sensitive coating material onto a handheld food item that is a grain cake as recited in the present claims. Both Leebens and Bartolomei merely teach coating a cereal piece. In addition, Leebens and/or Bartolomei fail to teach or suggest the subject matter recited in new claims 72-75. Leebens and/or Bartolomei have no disclosure whatsoever regarding 1) a coating material that liquefies upon heating (claims 72, 73, 75) or 2) combining a liquid food coating material with a heat-sensitive food material to form a primary coating material and applying the primary coating material to a handheld snack item (claim 74).

As neither reference even remotely suggests: 1) coating a handheld food item that is a grain cake; 2) a coating material that liquefies upon heating; or 3) combining a liquid food coating material with a heat-sensitive food material, Applicant respectfully requests that the § 103 rejection be withdrawn.

#### **CONCLUSION**

In view of the foregoing, claims 1, 39-41 and 43-75 are allowable. An indication of allowance is solicited at an early date.

Respectfully submitted,

  
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Date: May 13, 2003

Appl. No. 09/928,591

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

The claims have been amended as follows.

1. (Amended) A method for preparing a hand-held snack item, said method comprising:
  - (a) applying a first edible, heat-sensitive food material to an initial formed hand-held food item that is a grain cake, thereby forming a preliminary coated hand-held food item;
  - (b) applying a second edible food coating material to said preliminary coated hand-held food item, thereby forming a secondary coated hand-held food item, wherein said second edible food material is applied to said preliminary coated hand-held food item in such a manner as to substantially completely coat said first edible, heat-sensitive food material, and wherein said second edible food material is selected from a material which possesses sufficient physical characteristics to act as a protective medium for said first edible, heat-sensitive food material when said secondary coated hand-held food item is subjected to a temperature in the range of from about 35°C to about 350°C for a period of time in the range of from about 10 hours to about 30 seconds; and
  - (c) subjecting said secondary coated hand-held food item to a temperature in the range of from about 35°C to about 350°C for a period of time in the range of from about 10 hours to about 30 seconds, thereby producing a final, coated hand-held snack item wherein said first edible, heat-sensitive food material is substantially intact.

40. (Amended) A method according to claim 39 wherein said initial formed hand-held food item is [a grain cake] prepared from grains selected from the group consisting of rice, corn and popcorn, wherein said preliminary coated hand-held food item comprises from about 1% to about 40% by weight of said first edible, heat-sensitive food material, with the balance comprising the initial formed hand-held food item; and wherein said first edible, heat-sensitive food material is selected from the group consisting of chocolate chips, cheese and dairy products, fruit pieces, cinnamon, chocolate powder, cocoa, pieces of nuts, sesame seeds, pieces of ham, pieces of bacon, and mixtures thereof.

[48.] 49. (Amended) A method according to claim 1 wherein said preliminary coated hand-held food item comprises from about 1% to about 50% by weight of said first edible, heat-sensitive food material, with the balance comprising the initial formed hand-held food item.

[49.] 50. (Amended) A method according to claim [48] 49 wherein said preliminary coated hand-held food item comprises from about 5% to about 40% by weight of said first edible, heat-sensitive food material, with the balance comprising the initial formed hand-held food item.

[50.] 51. (Amended) A method according to claim [49] 50 wherein said preliminary coated hand-held food item comprises from about 8% to about 30% by weight of said first edible, heat-sensitive food material, with the balance comprising the initial formed hand-held food item.

[51.] 52. (Amended) A method according to claim [48] 49 wherein said secondary coated hand-held food item comprises from about 5% to about 65% by

weight of said first edible, heat-sensitive food material; and from about 10% to about 80% by weight of said second edible food coating material, with the balance comprising the initial formed hand-held food item; and wherein said second edible food coating material is a liquid syrup composition comprising from about 10% to about 90% by weight of a viscosity providing agent, from about 5% to about 80% by weight flavoring ingredients, from 0% to about 90% by weight bulking substance, from 0% to about 30% by weight fatty acid glycerides, and the balance being water.

[52.] 53. (Amended) A method according to claim [49] 50 wherein said secondary coated hand-held food item comprises from about 10% to about 60% by weight of said first edible, heat-sensitive food material; and from about 20% to about 70% by weight of said second edible food coating material, with the balance comprising the initial formed hand-held food item; and wherein said second edible food coating material is a liquid syrup composition comprising from about 20% to about 80% by weight viscosity providing agent selected from the group consisting of sucrose, glucose, fructose, corn syrup and mixtures thereof, from about 5% to about 70% by weight flavoring ingredients selected from the group consisting of salt, cocoa powder, cheese powder, natural and artificial flavoring agents, and mixtures thereof, from 0% to about 80% by weight bulking substance selected from the group consisting of starch, cellulose fiber, bean fiber and mixtures thereof, from about 1% to about 20% by weight fatty acid glycerides selected from the group consisting of vegetable oil, sunflower oil, safflower oil, cottonseed oil, canola oil, soybean oil, and mixtures thereof, with the balance being water.

[53.] 54. (Amended) A method according to claim [50] 51 wherein said secondary coated hand-held food item comprises from about 15% to about 30% by weight of said first edible, heat-sensitive food material; and from about 30% to about

60% by weight of said second edible food coating material, with the balance comprising the initial formed hand-held food item; and wherein said second edible food coating material is a liquid syrup composition comprising from about 30% to about 70% by weight viscosity providing agent selected from the group consisting of sucrose, glucose, fructose, corn syrup and mixtures thereof, from about 5% to about 30% by weight flavoring ingredients selected from the group consisting of salt, cocoa powder, cheese powder, natural and artificial flavoring agents, and mixtures thereof, from about 20% to about 70% by weight bulking substance selected from the group consisting of starch, cellulose fiber, bean fiber and mixtures thereof, from about 1% to about 10% by weight fatty acid glycerides selected from the group consisting of vegetable oil, sunflower oil, safflower oil, cottonseed oil, canola oil, soybean oil, and mixtures thereof, with the balance being water.

[54.] 55. (Amended) A method according to claim [51] 52 wherein said secondary coated hand-held food item is dried in an oven by being subjected to a temperature in the range of from about 75°C to about 250°C for a period of time in the range of from about 60 minutes to about 60 seconds.

[55.] 56. (Amended) A method according to claim [52] 53 wherein said secondary coated hand-held food item is dried in an oven by being subjected to a temperature in the range of from about 125°C to about 175°C for a period of time in the range of from about 10 minutes to about 2 minutes.

[56.] 57. (Amended) A method according to claim 1 wherein said first edible, heat-sensitive food material is selected from the group consisting of chocolate chips, cheese and dairy products, fruit pieces, cinnamon, chocolate powder, cocoa, pieces of nuts, sesame seeds, pieces of ham, pieces of bacon, and mixtures thereof.

[57.] 58. (Amended) A method according to claim [56] 57 wherein said first edible, heat-sensitive food material is selected from the group consisting of cheese and dairy products, pieces of ham, pieces of bacon, cinnamon, and mixtures thereof.

[58.] 59. (Amended) A method according to claim [57] 58 wherein said first edible, heat-sensitive food material is selected from the group consisting of cheese and dairy products [pieces], pieces of ham, pieces of bacon and mixtures thereof.

[59.] 60. (Amended) A method according to claim [58] 59 wherein said first edible, heat-sensitive food material is selected from the group consisting of cheese and dairy products.

[60.] 61. (Amended) A method according to claim 1 wherein the initial hand-held food item is conveyed along a first conveyor and the first edible, heat-sensitive food material is conveyed along a second conveyor elevated above said first conveyor and oriented in such a manner that the initial formed hand-held food items pass under the terminating edge of the second conveyor allowing the edible, heat-sensitive food material to drop onto the top of the initial formed hand-held food item.

[61.] 62. (Amended) A method according to claim 1 wherein the initial hand-held food item is conveyed along a first conveyor and the first edible, heat-sensitive food material is applied to the initial hand-held food item via a vibratory tray elevated above said first conveyor and oriented in such a manner that the initial formed hand-held food items pass under the vibratory tray allowing the edible, heat-sensitive food material to drop onto the top of the initial formed hand-held food item.



[62.] 63. (Amended) A method according to claim 1 wherein the initial hand-held food item is conveyed along a first conveyor and the first edible, heat-sensitive food material is applied via a hopper elevated above the first conveyor and oriented in such a manner that the initial formed hand-held food items pass under the hopper allowing the edible, heat-sensitive food material to drop onto the top of the initial formed hand-held food item.

[63.] 64. (Amended) A method according to claim 1 wherein the preliminary coated hand-held food item is conveyed along a first conveyor and the second edible food coating material is a liquid and is applied via a sprayer.

[64.] 65. (Amended) A method according to claim 1 wherein the preliminary coated hand-held food item is conveyed along a first conveyor and the second edible food coating material is applied via a hopper elevated above the first conveyor and oriented in such a manner that the preliminary coated hand-held food item passes under the hopper allowing the edible food coating material to drop onto the top of the preliminary coated hand-held food item.

[65.] 66. (Amended) A method according to claim [64] 65 wherein the edible food coating material is liquid syrup.

[66.] 67. (Amended) A method according to claim [64] 65 wherein the second edible food coating material is a powder that liquefies upon heating and then evaporates to absorb heat.

[67.] 68. (Amended) A method according to claim 1 wherein the edible food coating material is a powder that liquefies upon heating and then evaporates to absorb heat.

[68.] 69. (Amended) A method according to claim 1 wherein said secondary coated edible food item is dried to contain from about 0.5% to about 6% moisture.

[69.] 70. (Amended) A method according to claim 1 wherein said secondary coated edible food item is dried to contain from about 1% to about 5% moisture.

[70.] 71. (Amended) A method according to claim 1 wherein said secondary coated edible food item is dried to contain from about 2% to about 4% moisture.

New claims 72-75 have been added.

- 72. A method for preparing a hand-held snack item, comprising:
- (a) applying a first edible, heat-sensitive food material to an initial formed hand-held food item, thereby forming a preliminary coated hand-held food item;
  - (b) applying a heat-absorbing material to said preliminary coated hand-held food item thereby forming a secondary coated hand-held food item, the heat-absorbing material capable of liquefying to act as a protective medium for said edible, heat-sensitive food material when subjected to a

- temperature in the range of from about 35°C to about 350°C for a period of time in the range of from about 10 hours to about 30 seconds; and
- (c) subjecting said secondary coated hand-held food item to a temperature in the range of from about 35°C to about 350°C for a period of time in the range of from about 10 hours to about 30 seconds to cause the heat absorbing material to liquefy, and thereafter cooling the snack item to produce a final, coated hand-held snack item wherein said edible, heat-sensitive food material is substantially intact.

73. The method of claim 72 wherein the heat-absorbing material comprises a powder that substantially completely coats said first edible, heat sensitive food material.

74. A method for preparing a grain cake, comprising:

- (a) combining an edible, liquid food coating material with an edible, heat-sensitive food material to form a primary edible, liquid food coating material, the edible, liquid food coating material acting as a protective medium for the heat-sensitive food material when the primary edible, liquid food coating material is subjected to a temperature in the range of from about 35°C to about 350°C for a period of time in the range of from about 10 hours to about 30 seconds;
- (b) applying the primary edible, liquid food coating material to a grain cake, thereby forming a coated grain cake; and
- (c) subjecting said coated grain cake to a temperature in the range of from about 35°C to about 350°C for a period of time in the range of from about 10 hours to about 30 seconds, thereby producing a final, coated grain

cake wherein the edible, heat-sensitive food material is substantially intact.

75. A method for preparing a hand-held snack item, comprising:
- (a) applying a first edible, heat-sensitive food material to an initial formed hand-held food item, thereby forming a preliminary coated hand-held food item;
  - (b) applying a protective curable powdered material to said preliminary coated hand-held food item thereby forming a secondary coated hand-held food item, the protective curable powdered material capable of curing by liquefying when heated and drying as a solid film to protect the edible, heat-sensitive food material when subjected to an elevated temperature and drying; and
  - (c) subjecting said secondary coated hand-held food item to an elevated temperature to liquefy and dry the curable powdered material to produce a final, coated hand-held snack item wherein the edible, heat-sensitive food material is substantially intact.--